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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/729,521

12/05/2003

Richard Floyd Percy

16638-US

2404

30689

7590

08/08/2006

DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265

EXAMINER

KOVACS, ARPAD F

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,521

Applicant(s)

PERCY ET AL.

Examiner

Árpád Fábián Kovács

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17-19, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) 1-15 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18, 19, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 18-19, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weisert (part of record).

Weisert discloses a metal box like catcher, comprising side panels, a rear facing opening & lower panel with an elevated lip (sleeve portion 21, elevated with respect to a roller 27) at the opening at least one retaining structure, that is offset (from ref 13) and which is providing a primary retaining for a reinforcing metal rod (20). The rod extending through an access hole of the side panels (that includes the sides of the lower panel). The rod may be press fitted or provided as shown. The grass catcher capable of being used with a reel type mower.

Weisert discloses the claimed device except for choosing plastic over metal.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use plastic material instead of metal, since it has been

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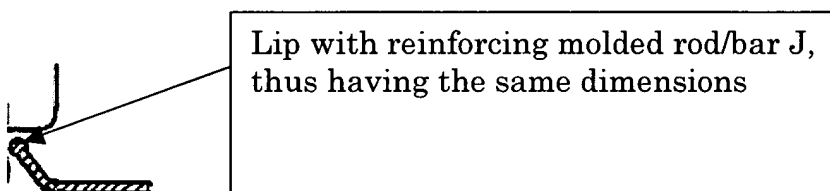
held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin* , 125 USPQ 416.

Weisert discloses the claimed invention except for being molded.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the rod & catcher integrally, molded or press fitted that results in having the rod no smaller cross section than the retaining structure's internal dimension, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

3. Claims 18-19, 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Partsch (part of record).

Partsch discloses a box like catcher, comprising side panels, a rear facing opening & lower panel with an elevated lip (see lip below) at the opening at least one retaining structure (see molded lip & retaining portion below), that is offset (from the sides) and which is providing a primary retaining for a reinforcing metal rod (ref J; col. 3, ln 31-32). The rod extending through an access hole of the side panels (that includes the sides of the lip) & above at least some portions of the lower wall (see fig below). The rod may be press fitted or molded as shown. The grass catcher capable of being used with a reel type mower (col. 3, ln 8). Although, it is not shown it is conceivable that some of the reinforcing rod is exposed facing upwardly, especially when the grass catcher is placed side ways & the ends face upwardly & exposed.



Partsch discloses the claimed device except for using plastic.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use plastic material instead of sheet metal, since it has been held to be within the general skill of a worker in the art to select a known

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material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Partschi discloses the claimed invention except for having at least three retaining structures.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide at least three or more retaining structures, since it has been held that mere duplication (triplicating) of the essential parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Response to Arguments

4. Applicant's arguments with respect to claims 18-19, 21-22 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argued that neither Partsch or Weisert disclose the material properties / design choice of the material of the invention as claimed, i.e. the “reinforced one-piece molded plastic grass catcher.” It is noted that the Examiner admitted that Weisert discloses “a metal box like catcher.” However, it is well known to use plastic over metal on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Similarly, in re Partsch’s device can be made of plastic.

Applicant’s argument in the retaining structure integrally molded in the invention, while not disclosed as such in the prior art. It is agreed that the retaining structure is not integral as the Applicant argued and/or shown in Applicant’s drawings. However, Partch does not show integral reinforcement as to the extent of the claim interpretation. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the rod & catcher integrally, molded or press fitted that results in having the rod no smaller cross section than the retaining structure’s internal dimension, since it has been held that forming in one piece an article which has formerly been formed in

two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Applicant's argument in re claim 19, the "plastic box like structure" was already addressed in re the plastic versa the metal material design choice as shown above.

Applicant's argument describing an inherent characteristic of an element when integrally formed is not agreed for the reasons of inherency.

The above response to arguments is considered part of the final Office action.

Election/Restrictions

5. Claims 1-15, 17 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 7/28/2006.

A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action.

Conclusion

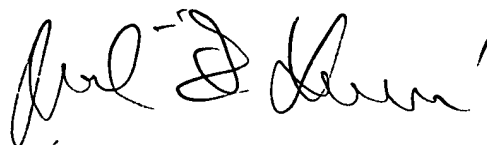
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Árpád Fábián Kovács
Primary Examiner
Art Unit 3671

ÁFK